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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,884	06/14/2005	Holger Auchter	016906-0397	8845

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FOLEY AND LARDNER LLP
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WASHINGTON, DC 20007

EXAMINER

BOCHNA, DAVID

ART UNIT	PAPER NUMBER
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3679

MAIL DATE	DELIVERY MODE
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05/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/538,884

Applicant(s)

AUCHTER ET AL.

Examiner

David E. Bochna

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the rounded triangle recited in claim 7 (fig. 4 only depicts an L-shaped end and none of the other figures depict a closed, three sided structure) and the motor vehicle and heat exchange system recited in claims 14 and 15 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 7 is objected to because of the following informalities:

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3. Claim 7 recites the limitation "the end regions" in line 2. There is insufficient antecedent basis for this limitation in the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4 and 7-15 are rejected under 35 U.S.C. 102(b) as being anticipated by German Patent 19,953,129.

In regard to claim 1, German Patent '129 discloses a circumferential clamp 26 for fastening and connecting junction tubes on a heat exchanger in a motor vehicle, wherein at least one end region of the clamp 50 is bent away from the tubes back toward the body of the clamp.

In regard to claim 2, wherein the bent-back end region 50 of the clamp has at least one sharp edge.

In regard to claim 3, wherein, in the assembled state, the bent-back end region 50 is in bearing contact against at least one flange or bead of a tube (via 54).

In regard to claim 4, wherein the bent-back end region has a sharp edge in the region of bearing contacts (transition edge from 54 to side 50).

In regard to claim 7, wherein the end regions of the clamp 50 are bent back in such a way that they form approximately the shape of a rounded triangle (if you extend a line down from 30

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to the tip of 50 you have a triangle, additionally, the bent back region of '129 is as much a triangle as the bent back region 9 of the present invention, as neither has a closed three sided structure).

In regard to claim 8, the triangles have no angle above 90 degrees.

In regard to claim 9, the triangles are approximately equilateral.

In regard to claim 10, wherein a slot 54 which runs in the longitudinal direction of the clamp is provided in the region of at least one end region of the clamp.

In regard to claim 11, a slot 54, which runs in the longitudinal direction of the clamp is provided in the region of at least one end region of the clamp and wherein the slot runs over two sides 30, 50 of the corresponding triangle.

In regard to claim 12, the clamp 26 is designed essentially symmetrically with respect to a transverse axis.

In regard to claim 13, German Patent '129 discloses a tube and clamp assembly comprising:

a first tube 18;

a second tube 16; and

a circumferential clamp 26 for fastening and connecting the first tube to the second tube, wherein at least one end region of the clamp 50 is bent away from the tubes back toward the body of the clamp 30.

In regard to claim 14, German Patent '129 discloses a heat exchange system comprising a tube 18, 16 and clamp 26 assembly according to claim 13.

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In regard to claim 15, German Patent '129 discloses a motor vehicle comprising a heat exchange system according to claim 14.

6. Claims 1 and 7-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Panasuk et al.

In regard to claim 1, Panasuk et al. discloses a circumferential clamp 30, wherein at least one end region of the clamp 58 is bent away from the tube 104 back toward the body of the clamp.

In regard to claim 7, wherein the end region of the clamp 58 is bent back in such a way that they form approximately the shape of a rounded triangle.

In regard to claim 8, the triangle 58 has no angle above 90 degrees.

In regard to claim 9, the triangle 58 is approximately equilateral.

Response to Arguments

7. Applicant's arguments with respect to claims 1-4 and 7-15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. Bochna whose telephone number is (571) 272-7078. The examiner can normally be reached on 8-5:30 Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'David E. Bochna', with a stylized flourish at the end.

David E. Bochna
Primary Examiner
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